

CONTRACT #1
RFS # 401.00-99910
FA # 09-25707-00

Transportation

VENDOR:
Charles Tombras Advertising
d.b.a.
The Tombras Group



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
SUITE 700, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0349
(615) 741-2848

GERALD F. NICELY
COMMISSIONER

RECEIVED

JUN 22 2009

FISCAL REVIEW

PHIL BREDESEN
GOVERNOR

June 10, 2009

Mr. James W. White, Executive Director
Tennessee General Assembly, Fiscal Review Committee
8th Floor, Rachel Jackson Building
Nashville, TN 37243

Subject: Non-Competitive Amendment – Charles Tombras Advertising d.b.a. The Tombras Group

Dear Mr. White:

The referenced contract amendment will extend the contract for one year and add federal funds for that year, as provided in the original contract. The Tombras Group, which was selected through the RFP process, will develop and implement highway safety related campaigns, make media buys and create media reports and other advertising services.

This packet contains the following materials as required by your office:

1. The proposed contract amendment and the contract summary sheet
2. The request for a non-competitive contract amendment
3. The original contract and contract summary sheet
4. Supporting documents:

Supplemental documentation required for Fiscal Review Committee
STARS back-up detail

Please advise if you have any questions or comments.

Sincerely,

Gerald F. Nicely
Commissioner

bw

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Elizabeth Hosmer or Brenda Waldron		*Contact Phone:	(615) 253-5521 (615) 741-1645	
*Contract Number:	FA-09-25707-00		*RFS Number:	40100-99910	
*Original Contract Begin Date:	9-15-08		*Current End Date:	9-14-09	
Current Request Amendment Number: (if applicable)			One		
Proposed Amendment Effective Date: (if applicable)			9-10-09		
*Department Submitting:			Transportation		
*Division:			Governor's Highway Safety Office		
*Date Submitted:			6-15-09		
*Submitted Within Sixty (60) days:			Yes		
If not, explain:					
*Contract Vendor Name:			Charles Tombras Advertising		
*Current Maximum Liability:			\$2,600,000.00		
*Current Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)					
FY: 2009	FY:	FY:	FY:	FY	FY
\$2,600,000.00	\$	\$	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from STARS or FDAS report)					
FY: 2009	FY:	FY:	FY:	FY	FY
\$1,224,977.09	\$	\$	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			N/A		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:			N/A		
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:			N/A		
*Contract Funding Source/Amount:	State:		Federal:	National Highway Traffic Safety Adm. 100% \$4,600,000.00	
If "other" please define:					

Supplemental Documentation Required for
Fiscal Review Committee

Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>	Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>
N/A	
Method of Original Award: <i>(if applicable)</i>	Request For Proposal 480.00-999-09
Include a detailed breakdown of the actual expenditures anticipated in each year of the contract. Include specific line items, source of funding, and disposition of any excess fund. <i>(if applicable)</i>	This project is paid entirely through federal funds and any remaining funds will go back into the federal budget for reallocation. The detailed budget is attached and labeled Governor's Highway Safety Office Paid and Earned Media
Include a detailed breakdown, in dollars, of any savings that the department anticipates will result from this contract. Include, at a minimum, reduction in positions, reduction in equipment costs, reduction in travel. <i>(if applicable)</i>	N/A
Include a detailed analysis, in dollars, of the cost of obtaining this service through the proposed contract as compared to other options. <i>(if applicable)</i>	N/A

06/09/09

VENDOR FINANCIAL FILE

14:35:18

TRANS F Y : 09

LAST UPDATED: 06-01-09

VENDOR NO : 0000139049 00 CHARLES TOMBRAS ADVERTISING INC

OBJECT DTL: 0860 ADVERTISING SERVICES

VENDOR TYPE: A

SORT SEQ: TOMBRASGRO

SFR RPT :

STATUS : N PRE-NOTIF/ACH-LGIP Y D

SFR NON-RPT: V620565115 00

JUL:	.00	AUG:	.00	SEP:	.00
OCT:	.00	NOV:	.00	DEC:	20,689.68
JAN:	442,093.05	FEB:	85,013.00	MAR:	63,511.61
APR:	297,239.21	MAY:	316,579.20	JUN:	148.66-
ADJ:	.00			FY TOTAL:	1,224,977.09

(PF11=GO TO VENDOR EDIT TABLE, PF09=GO TO VENDOR PAYMENT)
(PF7=OBJECT DETAIL SUMMARY)

NON-COMPETITIVE AMENDMENT REQUEST:**RECEIVED**

APPROVED

JUN 22 2009

FISCAL REVIEW

Commissioner of Finance & Administration

1) RFS #	40100-99910	
2) Procuring Agency :	Tennessee Department of Transportation, Governor's Highway Safety Office	
EXISTING CONTRACT INFORMATION		
3) Service Caption :	Media Marketing and Advertising	
4) Contractor :	Charles Tombras Advertising d.b.a. The Tombras Group	
5) Contract #	FA-09-25707-00	
6) Contract Start Date :	September 15, 2008	
7) CURRENT Contract End Date : (if ALL options to extend the contract are exercised)	September 14, 2013	
8) CURRENT Maximum Cost : (if ALL options to extend the contract are exercised)	\$2,600,000.00	
PROPOSED AMENDMENT INFORMATION		
9) Amendment #	One	
10) Amendment Effective Date : (attached explanation required if < 60 days after F&A receipt)	September 10, 2009	
11) PROPOSED Contract End Date : (if ALL options to extend the contract are exercised)	September 14, 2013	
12) PROPOSED Maximum Cost : (if ALL options to extend the contract are exercised)	\$ 4,600,000.00	
13) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
<p>The amendment will extend the contract for one year increase the maximum liability to provide funding that the additional year. There will be no change in the scope of services. This was procured through the RFP process and the original contract allowed for term extensions, up to five years.</p>		
15) Explanation of Need for the Proposed Amendment :		
<p>The National Highway Traffic Safety Administration (NHTSA) promotes the use of federal funds (under the Safe Transportation Equity Act) to support enforcement efforts and to educate and inform the public about highway safety. Research was conducted about the use of advertising of public service announcements and it was found that there is increased awareness, the public becomes educated about current state laws, it is a reminder of the consequences of negative behavior and increases the effectiveness of enforcement efforts. Utilizing an advertising agency fulfills the need of having the expertise in advertising with different forms of mediums to effectively reach the target audience and with the best techniques possible.</p>		
16) Name & Address of Contractor's Current Principal Owner(s) : (not required for a TN state education institution)		
Charles Tombras Advertising d.b.a. The Tombras Group		

Charles Tombras-President and CEO
PO Box 15151
Knoxville, TN 37901

17) Office for Information Resources Endorsement : (required for information technology service; n/a to THDA)

Documentation is ... ☒ **Not Applicable to this Request** ☐ **Attached to this Request**

18) eHealth Initiative Endorsement : (required for health-related professional, pharmaceutical, laboratory, or imaging service)

Documentation is ... ☒ **Not Applicable to this Request** ☐ **Attached to this Request**

19) Department of Human Resources Endorsement : (required for state employees training service)

Documentation is ... ☒ **Not Applicable to this Request** ☐ **Attached to this Request**

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

The RFP process was conducted and 49 entities were sent notification of the RFP as well as being posted on F & A's website. Eight advertising agencies actively competed for the contract. The contract was awarded to the agency with the highest score. This contract allows for a term extension for up to five years in one year increments. Since the contract is funded with federal funds which fluctuate annually based on the federal fiscal year, a year to year extension and the maximum liability must be renewed based on available funding.

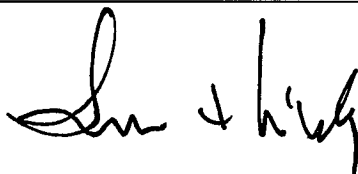
21) Justification for the Proposed Non-Competitive Amendment :

The original contract was procured through the competitive RFP process. This request is for a one year term extension and increase of maximum liability.

AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

SIGNATURE & DATE





CONTRACT AMENDMENT

Agency Tracking # 40100-99910	Edison ID FA-09-25707-00	Amendment # 1
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Contractor Charles Tombras Advertising, Inc., dba The Tombras Group	Contractor Federal Employer Identification or Social Security # <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 62-0565115
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Amendment Purpose/ Effects
Extends term of contract and adds funding for fiscal year 2010 as allowed in contract.

Contract Begin Date September 15, 2008	Contract End Date September 14, 2010	Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA #(s) 20.600/20.601/20.602/ 20.607/20.609/20.612
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FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2009		2,600,000.00			2,600,000.00
2010		2,000,000.00			2,000,000.00
TOTAL:		4,600,000.00			4,600,000.00

— COMPLETE FOR AMENDMENTS —			Agency Contact & Telephone # Audra Colvin 741-2498	
END DATE AMENDED? <input type="checkbox"/> YES <input type="checkbox"/> NO			Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred)	
FY	Base Contract & Prior Amendments	THIS Amendment ONLY		
2009	2,600,000.00			
2010		2,000,000.00		
TOTAL:	2,600,000.00	2,000,000.00	Speed Code	Account Code

— OCR USE —	Procurement Process Summary (non-competitive, FA- or ED-type only) Contractor was selected through RFP Process.
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**AMENDMENT ONE
TO FA-09-25707**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and Charles Tombras Adverting, Inc. d.b.a. The Tombras Group, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B.1 is deleted in its entirety and replaced with the following:

B.1. This Contract shall be effective for the period commencing on September 15, 2008 and ending on September 14, 2010. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section C.1 is deleted in its entirety and replaced with the following:

C.1 Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Four Million Six Hundred Thousand Dollars and no cents (\$4,600,000.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

2. The following provision is added as Contract Section E.16.

E.16. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.

- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
- b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.

- c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

The revisions set forth herein shall be effective September 10, 2009. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CHARLES TOMBRAS ADVERTISING, INC., d.b.a. The Tombras Group:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF TRANSPORTATION:

GERALD F. NICELY, COMMISSIONER

DATE

**JOHN REINBOLD, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY**

DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION

DATE

COMPTROLLER OF THE TREASURY

DATE

GOVERNOR'S HIGHWAY SAFETY OFFICE PAID AND EARNED MEDIA

Integrated Communications Plan Earned and Paid Media

The Governor's Highway Safety Office has developed an integrated communications plan that works in tandem with the NHTSA National Communications Plan, as well as utilizes the unique opportunities that are available in the State of Tennessee. The plan focuses on occupant protection and impaired driving through techniques that integrate marketing i.e. brand recognition, method of delivery, target audience selection and demographic characteristics and law enforcement efforts in order to support state laws and encourage behavioral changes.

Brand recognition and association of the message can help build and sustain social norms. Booze It and Lose it is associated with the penalties of drinking and driving and Click It or Ticket is associated with the seat belt use, both messages associate the brand with behavioral changes. Although media is not the only factor to changing behavior, it can influence and provide a sustaining message that over time can be persuasive.

Goal: To increase awareness of the following highway safety messages 5% for Booze It and Lose It, 2% for Click It or Ticket, 5% for 100 Days of Summer Heat and 5% Motorcycle Safety, Prom & Work Zone Safety.

Objectives: Provide educational messages through brand association that may lead to social norm changes of behavior.

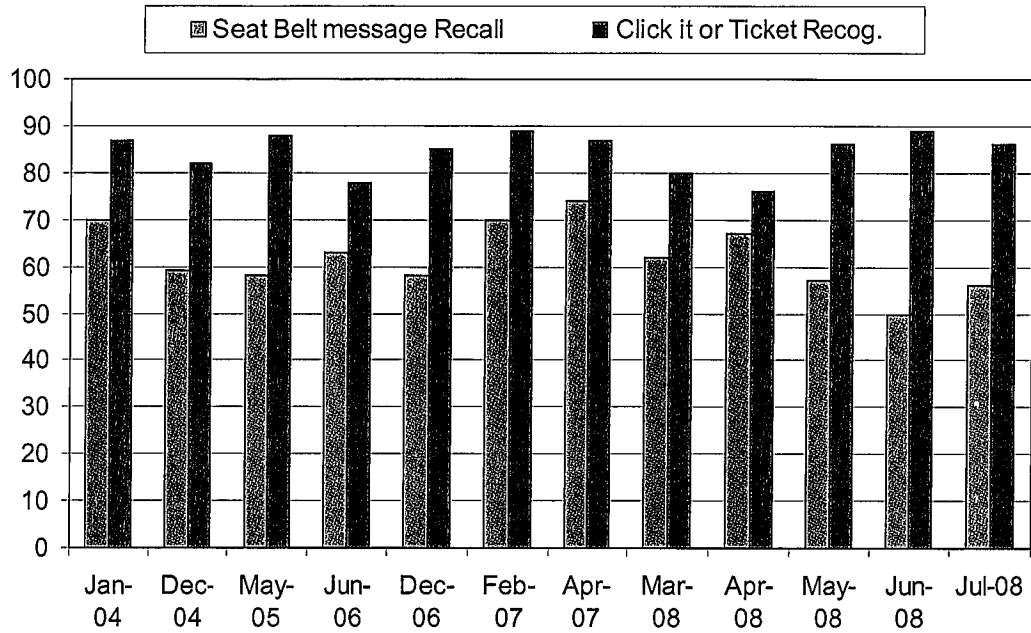
Evaluation: Attitudes and perceptions evaluation for each campaign over \$100,000 will be conducted to determine if awareness has increased. Baseline evaluations have been conducted for each of these campaigns and will be compared to the results gathered in 2007-2008.

Tasks: Develop, plan and carryout the Booze It and Lose It, Holiday, Click It or Ticket, 100 Days of Summer Heat, Prom and Motorcycle Safety campaigns as listed in the Events and Activities Calendar. Conduct attitudes and perceptions evaluations for each campaign period exceeding \$100,000.

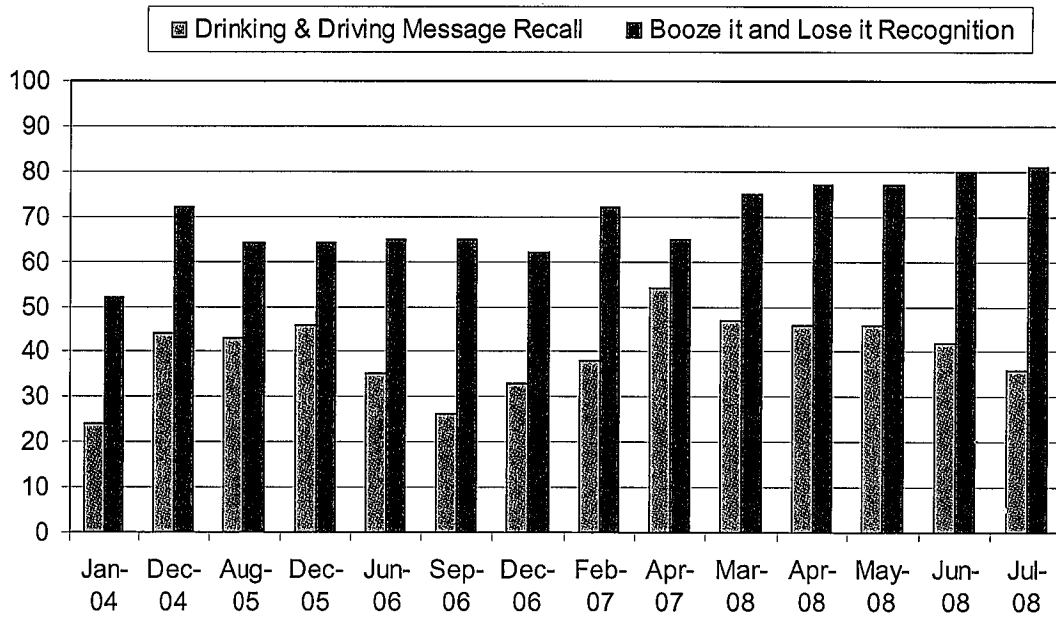
Funds: Federal Funding for the media marketing will include 163, 410, 402, 154, 406 and 2010.

The Social Science Research Institute has been conducting interviews with residents of the state of Tennessee over the past three years to measure driving habits and awareness of traffic safety slogans. Specifically, respondents have been asked about their recall and recognition of two slogans: *Click It or Ticket* and *Booze It and Lose It*. The timing of these interviews was scheduled to coincide with media campaigns sponsored by the Governor's Highway Safety Office. The findings of these surveys suggest that both campaigns have been successful in reaching the general public. Moreover, recall of the slogans has remained steady for the older, *Click It or Ticket*, slogan and has generally increased for the newer slogan, *Booze It or Lose It*.

Seat Belt Message Recall and Recognition



Drinking and Driving Recall and Recognition



Booze It and Lose It

The Booze It and Lose It campaign tag will be utilized with an enforcement message during the holiday and Labor Day campaign periods and will target "risk takers" (men 18-29) and "blue collars" (men 25-34) demographic groups. Campaign periods will include radio and television and the purchase of signage in the form of banners, posters and educational publications. Earned media will include a news release and press conference at the onset of each campaign period, with local municipalities reporting in on progress, sobriety checkpoint locations, and other notable activities. The measure for advertising outreach will be within the goals and guidelines of frequency and reach set by NHTSA for national paid media campaigns.

- The measure for each market purchased for broadcast television and cable will be a minimum of 200-300 Gross Ratings Points (GRP's) per week.
- The measure for each media market purchased for radio will be a minimum of 150-200 GRP's per week.
- These GRP's levels will deliver the sufficient reach to the target audience of male viewers and listeners ages 18-34.
- The frequency will be such that the target audience will see or hear the message a minimum of 3 times per campaign period.

Based on the congressional requirements, an attitudes and perceptions pre and post telephone surveys utilizing random digit dialing sampling techniques will be conducted for these campaign periods and the evaluation reports will be submitted to the Governor's Highway Safety Office and included in the Annual Media Report to NHTSA.

A tertiary component of the Booze It and Lose It campaign will include a promotion targeting college students, ages 18-22, male skewed and "risk takers" and will focus on Halloween activities. This promotion will include paid and earned media, production and airing of a radio spot and will utilize partnerships with the alcohol beverage commission and the restaurant association to distribute posters and coasters to restaurants, bars and dance clubs.

To address the diversity issue within the State a plan is being developed that will be incorporated to target the Hispanic Community. Many of the immigrants in Hispanic communities across the State came from countries where more often than not, people did not own or drive vehicles. Coming to the States requires learning driving skills and roadway rules and laws which may be difficult to deliver educational materials to. Through a partnership with Conexion Americanos, a DUI education and outreach service will provide educational campaign materials for *Manejar Borracho* and one-on-one interaction with the Hispanic community. It will also include radio and television buys during the NHTSA campaigns to interact with the Booze It and Lose message.

Estimated Booze It and Lose It Budget 2008-2010

Holiday (Nov 20-Jan 1)	TV \$300,000.00 (410) Yr One TV \$300,000.00 (410) Yr Two		Other- static clings, banners \$5,000.00 (154) Yr One Other- static clings, banners \$5,000.00 (154) Yr Two
Labor Day (Aug 17-Sep 4)	TV \$150,000.00 (410) Yr One TV \$150,000.00 (410) Yr Two		Other- educational materials \$3,500.00 (154) Yr One Other- educational materials \$3,500.00 (154) Yr One
Halloween (Oct 27-31)		Other-educational materials, posters \$5,000.00 (154) Yr One Other-educational materials, posters	

		\$5,000.00 (154) Yr Two	
Super Bowl (Jan 3 –Feb 3)			Banner- \$300.00 (154) Yr One Banner- \$300.00 (154) Yr Two
Manejar Borracho	TV \$30,000 (154) Yr One TV \$30,000 (154) Yr Two	Print Ads & Billboards \$20,000 (154) Yr One Print Ads & Billboards \$20,000 (154) Yr Two	Novellas and educational materials \$20,000 (154) Yr One Novellas and educational materials \$20,000 (154) Yr Two
Marketing	The Tombras Group	Production of television and radio spots, media purchase, banners, bus wrap etc	\$418,700.00 (154) Yr One \$118,700.00 (154) Yr Two

Click It or Ticket-Rural Seat Belt Demonstration Project

The Click It or Ticket campaign tag will be utilized with an enforcement message during the month of May and for the NHTSA Rural Seat Belt Demonstration Project and will target "risk takers" (men 18-29) and "blue collars" (men 25-34) demographic groups. Campaign periods will include radio and television and the purchase of signage in the form of banners, posters and educational publications. Earned media will include a press release at the onset of each campaign period in conjunction with the Hands Across the Border media and checkpoint events, with local municipalities reporting in on progress, sobriety checkpoint locations, and other notable activities. The measure for advertising outreach will be within the goals and guidelines of frequency and reach set by NHTSA for national paid media campaigns.

- The measure for each market purchased for broadcast television and cable will be a minimum of 200-300 Gross Ratings Points (GRP's) per week.
- The measure for each media market purchased for radio will be a minimum of 150-200 GRP's per week.
- These GRP's levels will deliver the sufficient reach to the target audience of male viewers and listeners ages 18-34.
- The frequency will be such that the target audience will see or hear the message a minimum of 3 times per campaign period.

Based on the congressional requirements, an attitudes and perceptions pre and post telephone surveys utilizing random digit dialing sampling techniques will be conducted for this campaign period and the assessment report will be submitted to the Governor's Highway Safety Office and included in the Annual Media Report to NHTSA.

Estimated Click It or Ticket Budget 2008-2010

Click It or Ticket	TV \$200,000.00 (163) Yr One TV \$60,000 (406) Yr One \$260,000 Yr Two		Other-banners, posters \$17,000.00 (402) Yr One Other-banners, posters \$17,000.00 (402) Yr Two
Marketing	The Tombras Group	Production, media purchase, educational materials, etc	\$24,000.00 (402) Yr One

			\$24,000.00 Yr Two
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Teen Drivers

Two key messages will target teenage drivers 16-20 in the 2008-2010 fiscal year. The first "Between the Barrels" focuses on teen occupant protection and will be utilized in eighteen high schools in the major metropolitan areas: Hamilton, Knox, Shelby and Davidson Counties. This project will reach an estimated 7,200 students. This project includes a multimedia school assembly component consisting of a 5 minute video that will be shown to junior and senior students, school information packet with handouts, and other instructional materials to encourage teens to use seat belts, obey speed limit signs in construction zones, and to pay attention to the events occurring around them. A radio spot was produced from the 5 minute video that can be used on school intercom systems and will be aired on radio stations in areas where the video will be used. The second message will be two radio and television spots that will promote an alcohol countermeasure message aimed at teenage drinking and driving. These spots will be shown during the Prep Blitz on WKRN that features high school football scores and highlights.

The Booze It and Lose It tag will be utilized in 3 high school events. The first being the high school football championship games, held at a central location in the State. High schools from across compete for the number one top ranking team based on school classification. The second is: the high school basketball championships with the same criteria mentioned for football. The third is the high school baseball, track, and soccer championships. These events collectively draw approximately 300,000 students annually, in addition to parents, grandparents and other interested visitors.

Estimated Teen Drivers Budget 2008-2010

Cool Schools/Prep Blitz, etc.	TV \$35,000.00 (154) Yr One TV \$35,000.00 (154) Yr Two		Other-banners \$500.00 (154) Yr One Other-banners \$500.00 (154) Yr Two
Between the Barrels	TV \$65,000.00 (402) Yr One TV \$65,000.00 (402) Yr Two		Internet-\$15,000.00 (402) Yr One Internet-\$15,000.00 (402) Yr Two
Prom-Graduation-	TV \$100,000.00 (154) Yr One TV \$100,000.00 (154) Yr Two		
High School FB,BB,Other	TSSAA	Signage, psa's, print ads, tv, radio	\$105,000.00 (154) Yr One \$105,000.00 (154) Yr Two
Lead and Live		Educational Brochures, pamphlets, artwork \$5,000.00 (154) Yr One Educational Brochures, pamphlets, artwork \$5,000.00 (154) Yr Two	
Marketing	The Tombras Group	Production, media purchase, etc.	\$5,000.00 (154) Yr One \$5,000.00 (154) Yr Two

Summer Promotion

The 100 Days of Summer Heat will be utilized with an enforcement message during the month of June, July, August and early September and will target "risk takers" (men 18-29) and "blue collars" (men 25-34) demographic groups. Advertising during these periods will include radio and television and press releases. The measure for advertising outreach will be within the goals and guidelines of frequency and reach set by NHTSA for national paid media campaigns.

- The measure for each market purchased for broadcast television and cable will be a minimum of 200-300 Gross Ratings Points (GRP's) per week.
- The measure for each media market purchased for radio will be a minimum of 150-200 GRP's per week.
- These GRP's levels will deliver the sufficient reach to the target audience of male viewers and listeners ages 18-34.
- The frequency will be such that the target audience will see or hear the message a minimum of 3 times per campaign period.
- The measure for each market purchased for broadcast television and cable will be a minimum of 200-300 Gross Ratings Points (GRP's) per week.
- The measure for each media market purchased for radio will be a minimum of 150-200 GRP's per week.
- These GRP's levels will deliver the sufficient reach to the target audience of male viewers and listeners ages 18-34.
- The frequency will be such that the target audience will see or hear the message a minimum of 3 times per campaign period.

Estimated Summer Promotion Budget 2008-2010

100 Days of Summer /Get Nailed	TV \$350,000.00 (154) Yr One TV \$350,000.00 (154) Yr One		Other-banners, educational items \$2,500.00(154) Yr One Other-banners, educational items \$2,500.00(154) Yr Two
Marketing	The Tombras Group	Production, media purchase, other marketing components, etc.	\$600,000.00 (154) Yr One \$200,000.00 (154) Yr Two

Motorcycle Safety

With motorcycles fatalities on the rise since 1998, Tennessee will embark on a motorcycle safety awareness campaign that will target men 25-54 whom are the predominant group represented statistically in fatalities since 2001. In 2007 the Tennessee Governor's Highway Safety Office partnered with the Tennessee Department of Safety and created a video package for motorcycle training and motorcycle safety awareness. The motorcycle spot ran statewide as a public service announcement in April of 2008 and radio spots were purchased for an awareness campaign. A press event was conducted in which approximately 100 motorcycle riders attended to emphasis motorcycle safety and a press release was distributed to local newspapers.

- The measure for each media market purchased for radio will be a minimum of 150-200 GRP's per week.
- These GRP's levels will deliver the sufficient reach to the target audience of all viewers and listeners ages 18-34.
- The frequency will be such that the target audience will see or hear the message a minimum of 3 times per campaign period.

Estimated Motorcycle Budget 2008-2010

Share the Road	Radio \$105,000.00 (2010) Yr One Radio \$105,000.00 (2010) Yr Two		Other-banners, posters, signage \$3,500.00 (2010) Yr One Other-banners, posters, signage \$3,500.00 (2010) Yr Two
Marketing	The Tombras Group	Production, media purchase, etc.	\$5,000.00 (402) Yr One \$5,000.00 (402) Yr Two

Total federal funds for all projects for Year One (2009) and Year Two (2010): \$4,600,000.00

Federal Fund Sources: 410, 2010, 163, 402, 154 Funds run on a Federal Fiscal Year Cycle

Events and Activities 2008-2010

MONTH	THEME AND APPROX DATES	MEDIA/PUBLICATIONS/ ACTIVITIES	APPLICATIONS/EVALUATION
October	Halloween – <i>Booze It and Lose It</i> Oct. 26- 31	Earned Media – News Release Media Purchase DMS Boards	
November (to Jan. 1)	Rural Demonstration Project <i>Click it or Ticket</i> Nov. 10 – Nov.16 Thanksgiving – <i>Booze It and Lose It</i> Nov. 23 – Jan. 1	Earned Media- News Release Media Purchase Earned Media – News Release Sobriety Checkpoints DMS Boards	Attitudes and Perceptions Survey
December	<i>National Drunk & Drugged Driving Prevention Month</i> (TBD)	Impaired Driving Media Release Alcohol Mobilization News conference	
January			
February	Super Bowl Sunday <i>Booze It and Lose It</i> Jan. 29 – Feb. 1	Media Purchase Sobriety Checkpoints News Conference DMS Boards	
March	Work Zone <i>Between the Barrels</i> April 6-12	Media Purchase DMS Boards Revised dates	
April	Prom Season (<i>Alcohol Message</i>) April 13-19 Motorcycle Awareness (<i>Safety Message</i>)	Media Purchase Revised dates News Release/News Conference	Attitudes and Perceptions Survey Attitudes and Perceptions Survey

	April 26 - May 2	Media Purchase DMS Boards	
May	May Mobilization/Rural Demonstration Project <i>Click It or Ticket</i> May 1 - June 2	News Release/News Conference Media Purchase Hands Across the Border News Sobriety Checkpoints DMS Boards	Attitudes and Perceptions Survey
June	Enforcement Efforts <i>100 Days Summer Heat</i> <i>Motorist & Motorcycle</i> Jun 21 – Sept 7	Media Purchase DMS Boards Sobriety Checkpoints	Attitudes and Perceptions Survey
July	4 th of July <i>Impaired Driving</i> Law Enforcement Challenge (date TBD) Tennessee Lifesavers Conference (date TBD)	News Release Media Purchase Earned Media	
August	<i>Booze It and Lose It</i> August 15-September 7	<i>Booze It and Lose It</i> Media Purchase Sobriety Checkpoints	Attitudes and Perceptions Survey
September			

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**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TRANSPORTATION
GOVERNOR'S HIGHWAY SAFETY OFFICE
AND
CHARLES TOMBRAS ADVERTISING, INC.
d.b.a. THE TOMBRAS GROUP**

This Contract, by and between the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, hereinafter referred to as the "State" and Charles Tombras Advertising, Inc., d.b.a. The Tombras Group, hereinafter referred to as the "Contractor," is for the provision of providing Electronic and Print Media and Advertising Services, as further defined in the "SCOPE OF SERVICES."

The Contractor is a For-Profit Corporation.

Contractor Federal Employer Identification or Social Security Number: 62-0565115

Contractor Place of Incorporation or Organization: Tennessee

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.
- A.2. The Governor's Highway Safety Office is responsible for encouraging good driving and safety behaviors on highways and roadways throughout the State. This is done by promoting, educating and disseminating information through the placement of paid media. In order to accomplish the goal of reducing fatalities and injuries on the highway system and educating the public on highway safety issues and highway issues, the Contractor shall provide a contract for full-service advertising services.

For purposes of this contract, "highway safety issues and highway issues" shall include the following programs:

- Impaired Driving
- Safety Belt Usage and Child Passenger Safety
- Motorcycle Safety
- Work Zone and Roadway Safety
- Compliance with Safety Laws (Speed Enforcement, Cell Phone Use, Move Over, etc.)
- Teen and Senior Drivers
- Railroad Crossing Safety
- Traffic Records
- Emergency Medical Services
- Highway/Interstate Closings, Re-Routing
- Safe Routes to School and School Bus Safety
- Biodiesel and other Highway Public Information Issues
- Other Issues Mandated by the National Highway Traffic Safety Administration (NHTSA)

- A.3. The Contractor will perform the following marketing/advertising services to assist the State in its efforts to inform and educate the public:

- a. Design and produce media campaigns and single advertisements which include, but are not limited to: creation, development of graphics, logos, slogans, symbols, and announcements for television spots (ads), radio spots, billboards, signage, power point presentations, videos, website, and brochures.
- b. The Contractor shall submit a campaign plan and estimated hours (per service description) for approval. Campaigns are developed based on factors/research such as: holidays known to have high periods of alcohol use, proms, warm weather, (more motorists on the roads), or a need specific to an area of community. NHTSA provides a communications plan to assist the State with planning which includes:
 - determining who the target audience might be
 - campaign theme/message/concepts
 - which forms of media may be used to promote effective campaigns
 - budgetary considerations
- c. The State shall provide the Contractor with the following parameters based on the campaign.
 - The target audience
 - The purpose of the campaign
 - Number of concepts for the spot from which the State may choose
 - Talent budgets
 - Production estimate for camera crew
 - Overall budget for entire campaign (all inclusive of spot production, media planning and media purchase)
- d. An estimated time line from concept to production may occur as follows:
 - Contractor will submit concept(s) – 10-12 weeks prior to flight date (date and time ad will run)
 - State will evaluate the concept(s) and choose one for production – 8-10 weeks prior to flight
 - Contractor will secure production crew – 6-8 weeks prior to flight date (the State may attend the production.)
 - Contractor will provide copies of the spot to the State for acceptance or rejection – 4-6 weeks prior to flight date
 - Contractor will place the buy and spots will be distributed to respective stations - 2-4 weeks prior to flight date

A.4. The Contractor shall make media buys, and provide media reports and administrative reconciliation services. The Contractor shall make media buys which could consist of:

- the type of spot (radio, television or both)
 - spot length/time
 - spot flight
 - number of spots based upon a budget
- a. The State shall provide the Contractor with the following parameters based on a budget set by the state and established for each campaign plan that will contain the following criteria:

- Campaign components to be utilized (radio, television, cable or other media)
- Demographic of target audience
- Reach/frequency expectations
- Markets to include in the campaign
- Flight dates

Media buys are generated by stations computer systems which place spots based upon the list above, and availability (day parts) during programming. The station then recaps this criteria and provides various data allowing the Contractor to determine the effectiveness of the buy. The Contractor submits this to the State for review and approval.

- b. Each buy is to include matching Public Service Announcements (PSAs), whenever possible. A PSA may be an audio or visual noting a public safety message. An example might be "Click it or Ticket" or "Buckle Up in Your Truck."
- c. Stations chosen must be ranked in the top one half of the market, target the chosen demographic group and have a large reach; i.e. a reach or frequency most advantageous for recollection and recall of the message. For radio, traffic reports and rural network groups may be included in the plan depending on the target audience. Television and radio stations are chosen based on research data gained through Arbitron or Nielson ratings.
- d. The Contractor will submit a media plan to the State approximately six weeks prior to the beginning of the campaign flight. Upon approval of the media plan by the State (usually within two days), the Contractor may then obtain proposals from stations. The Contractor will submit a Station Order outlining day part schedule, costs, net rate of media costs and flight dates along with station name, market, station contact and campaign title. Upon approval of the Station Order by the state (usually within 1-3 days), the Contractor may lock in the order with each station.

- A.5. The Contractor shall consult with the State regarding the best use of media resources to maximize the effectiveness of a campaign or a particular advertisement.
- A.6. The Contractor shall purchase media as directed by the State. The Contractor shall allow the State the benefit of any and all discounts that are afforded the Contractor. The Contractor shall immediately notify the State of any discounts, special promotions, sponsorships, or other media opportunities for the State to consider.
- A.7. The Contractor shall, at the written request of the State, produce items to further the success of the marketing campaign (banners, mobile signage, exhibit booths, digital graphics, advertising wrap.) provided, however, that the State shall pay the Contractor's cost with no mark-up. Contracting for talent and media production (film, lighting, make-up, dubs) shall likewise be reimbursed at cost with no mark-up.
- A.8. The Contractor shall provide reports as requested by the State addressing the effectiveness of various efforts performed under this contract for evaluation and reporting purposes as required by NHTSA.
- A.9. The Department of Transportation may allow the State Department of Safety to utilize this contract for its safety campaigns. All scheduling and billing shall be handled through the Department of Transportation. Employees in the State Department of Safety shall not contact the Contractor, but must contact the Department of Transportation for approval. The Department of Transportation shall instruct the Contractor on behalf of the Department of Safety.

The Contractor shall not contact the Department of Safety or other State agencies or employees of other State agencies regarding this contract, in part or in whole, unless approved to do so by the State's Contract Administrator. The State shall not be liable for any advertising provided by the Contractor that is given without prior approval by the State's Contract Administrator.

B. CONTRACT TERM:

- B.1. This Contract shall be effective for the period commencing on September 15, 2008 and ending on September 14, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract, and shall be based upon payment rates provided for in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Million Six Hundred Thousand Dollars and no cents (\$2,600,000.00). The payment rates in Section C.3 and the Travel Compensation provided in Section C.4 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
- b. Renumeration for the campaign project(s) shall be based on a campaign/project plan and maximum cost as proposed by the Contractor and approved by the State. The Contractor shall invoice the State at rates not to exceed the applicable hourly rates detailed below and the total amount shall not exceed the maximum campaign/project plan cost proposed and accepted by the State.

- c. Consultations as described in A.5. and report preparation as described in A.8. shall be provided according to the rate below, dependant upon State approval.
- d. Invoicing of incremental billable hours must include the service description and employee name.

Service Description* Reference A.3	Amount ** (rate per hour)
Account Executive	\$40.00 /per hour
Administrative /Clerical/Intern	\$40.00/per hour
Art Director	\$40.00/per hour
Copywriter	\$40.00 /per hour
Creative Director	\$40.00 /per hour
Digital Services	\$40.00 /per hour
Illustration	\$ 40.00/per hour
Media Placement Services	\$40.00 /per hour
Photo Retouching	\$40.00 /per hour
Production Supervisor	\$40.00 /per hour

*Job descriptions are described in Attachment Two

** Should the term extension provision be exercised by amendment, the same rates listed will be applicable for years 2-5.

The Contractor shall provide the State with an estimated number of hours per job description for each marketing campaign.

- e. The Contractor shall not be compensated for travel time to the primary location of service provision.

Service Description Reference A.4.	Not To Exceed % Mark-up**
* Media Buys (Print and Broadcast) %	Three percent (3%)

** Should the term extension provision be exercised by amendment, the same rate listed will be applicable for years 2-5.

- f. *Following approval for each media buy, the Contractor shall negotiate the best possible rates for each and negotiate for free media. Media shall be procured competitively in a manner approved by the State. For each media buy approved by the State in advance, the State shall reimburse the Contractor for the Contractor's actual net cost of the media buy and shall compensate the Contractor for the Media placement in the amount of three percent (3%) of the Contractor's actual net cost of the media buy. Said payment shall constitute the total amount payable to the Contractor for any and all costs associated with a media buy and placement. The Contractor shall not be reimbursed or compensated for any media buy not approved by the State in advance.

Service Description See details below	Amount
Banners, Signage, Booths	At Cost – No mark-up
Talent and Media Production (film, lighting, make-up, dubs)	At Cost – No mark-up

g. The Contractor shall, at the written request of the State, produce items to further the success of the marketing campaign (banners, mobile signage, exhibit booths, digital graphics, advertising wrap) provided, however, that the State shall pay the Contractor's cost with no mark-up. Contracting for talent and media production (film, lighting, make-up, dubs) shall likewise be reimbursed at cost with no mark-up. These items shall be procured competitively in a manner approved by the State.

h. Incidental expenses such as telephone calls, faxes, photo copies, and package delivery are not reimbursable under this contract.

C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time. Travel requests must be approved prior to actual travel.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.

a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:

Elizabeth Hosmer
Governor's Highway Safety Office
James K. Polk Building, 18th Floor
505 Deaderick Street
Nashville, Tennessee 37243

b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

- (1) Invoice/Reference Number (assigned by the Contractor);
- (2) Invoice Date;
- (3) Invoice Period (period to which all invoiced charges are applicable);
- (4) Contract Number (assigned by the State to this Contract);
- (5) Account Name: Tennessee Department of Transportation, Governor's Highway Safety Office;
- (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
- (7) Contractor Name;
- (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
- (10) Contractor Remittance Address;
- (11) Complete Itemization of Charges, which shall detail the following:

- i. Service Description for each service invoiced;
- ii. Number of Units, Increments, or Milestones of each service invoiced;
- iii. Applicable Payment Rate (as stipulated in Section C.3.) for each service invoiced;
- iv. Amount Due by Service
- v. Travel Compensation requested in accordance with and attached to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations;" and
- vi. Total Amount Due for the invoice period.

c. The Contractor understands and agrees that an invoice to the State under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) not include any future work but will only be submitted for completed service; and
- (3) not include sales tax or shipping charges.

d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.

e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.

- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least Forty-Five (45) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment One, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.

- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, natural disasters, riots, wars, epidemics or any other similar cause.

- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Kendell Poole, Director
Tennessee Department of Transportation
Governor's Highway Safety Office
James K. Polk Building, 18th Floor
505 Deaderick Street
Nashville, Tennessee 37243
Kendell.Poole@state.tn.us
Telephone # 615-741-2589
FAX # 615-253-5523

Elizabeth Hosmer, Program Monitor 3
Tennessee Department of Transportation
Governor's Highway Safety Office
James K. Polk Building, 18th Floor
505 Deaderick Street
Nashville, Tennessee 37243
Elizabeth.Hosmer@state.tn.us
Telephone # 615-253-5521
Fax # 615-253-5523

The Contractor:

Charles Tombras, President & CEO
The Tombras Group
P.O. Box 15151
Knoxville, TN 37901
charlie@tombrass.com
Telephone 865-524-5376
Fax 865-524-5667

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. The Contractor shall maintain, at minimum, the following insurance coverage:
- (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
 - (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
 - (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.
 - (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.
- b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

- E.6. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.7. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

- E.8. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.

- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
- b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
- c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
- d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.

- E.9. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. The Contractor shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification, approved by the Commissioner of the Department of Transportation, for such decision and non-competitive procurement.
- E.10. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.11. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal
 - c. The Request for Proposal and its associated amendments
 - d. Technical Specifications provided to the Contractor
 - e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

- E.12. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.13. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

E.14. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.15. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's proposal responding to RFP-480.00-999 (Attachment 6.3, Section B, Item B.13.) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Business Diversity Enterprise in form and substance as required by said office.

IN WITNESS WHEREOF:

CHARLES TOMBRAS ADVERTISING, INC., d.b.a. THE TOMBRAS GROUP:

Charles P Tombras Jr
CONTRACTOR SIGNATURE

7-15-08
DATE

Charles P Tombras Jr President
PRINTED NAME AND TITLE OF CONTRCTOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF TRANSPORTATION:

Gerald F. Nicely JUL 22 2008
GERALD F. NICELY, COMMISSIONER DATE

John Reinbold 7/21/08
JOHN REINBOLD, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY DATE

APPROVED:

M. D. Goetz, Jr. 8/18/08
M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION DATE

John G. Morgan 8/21/08
JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	CHARLES TOMBRAS ADVERTISING, INC., d.b.a. THE TOMBRAS GROUP
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	62-0565115

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

Charles P. Tombras Jr
CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

Charles P. Tombras Jr President
PRINTED NAME AND TITLE OF SIGNATORY

7-15-08
DATE OF ATTESTATION

ATTACHMENT TWO

Media Services Job Descriptions

Account Executive

Serves as the liaison between the agency support staff and its client. Specific responsibilities include client communication, project management, budget tracking, and facilitation of all campaigns.

Administrative/Clerical/Intern

Responsible for generating paperwork to initiate the opening of jobs, shipping and receiving of materials to clients and vendors, making photo copies, accurate accounting of time keeping for all projects, purchase orders to outside vendors, generation of monthly invoices, and various other clerical and administrative functions.

Art Director

Responsible for collaborating with the creative team to generate campaign concepts and execution of creation of concepts. Applies campaign components to media forms such as print, broadcast and collateral.

Copywriter

Member of the creative team and responsible for collaborating with the group to generate copy and messages that meet the campaign goals.

Creative Director

Serves as the department head in leading the creative process. Supervises all art directors and copywriters.

Digital Services

Digital file preparation to insure creative and artwork file formats are compatible for use with various external vendors such as print suppliers.

Illustration

Creation of original artwork via a computer generated or hand drawn images.

Media Placement Services

Research, planning and buying of paid and non-paid media at the statewide level

Photo Retouching

Adjusting color, sizing, image imperfections, and other attributes to make the photo campaign ready.

Production Supervisor

Management of all trafficking projects through the agency with external vendors, for the timely completion of all campaign deliverables. Responsible for managing external purchases and securing a minimum of three outside production estimates pertinent to each campaign project to insure projects at or below budget allocated for each project.